



1636  
TW

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE			
<b>SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT</b>		Docket Number: 395/35	
Application Number 09/510,562	Filing Date February 22, 2000	Examiner D. Guzo	Art Unit 1636
Invention Title METHOD OF SCREENING FOR PROTEIN INHIBITORS AND ACTIVATORS		Inventor(s) Gerard M. HOUSEY	

Address to:  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

Date: August 9, 2005

Signature:   
Lawrence P. Carson (Reg. No. 46,606)

SIR:

- 92
1. In accordance with the duty of disclosure under 37 C.F.R. § 1.56 and in conformance with the procedures of 37 C.F.R. §§ 1.97(c) and 1.98 and M.P.E.P. § 609, Applicant hereby brings the attached documents to the attention of the Examiner.
- 01
2. *Bayer AG v. Housey Pharm., Inc.*, 128 Fed. \_\_\_, 2005 U.S. App. LEXIS 5419 (Fed. Cir. Apr. 4, 2005) concerns U.S. Patents that issued from applications to which the instant application claims priority ("the Housey patents") under 35 U.S.C. § 120. Clear error was found in the district court's determination of inequitable conduct (*Bayer AG v. Housey Pharm., Inc.*, 2003 U.S. Dist. LEXIS 22411 (D. Del. Dec. 4, 2003)) which was unanimously vacated and remanded.
- 01
3. In *Bayer AG v. Housey Pharm., Inc.*, (D. Del. Nov. 12, 2002), the district court conducted a Markman hearing to construe several limitations present in claims of the Housey patents. (See, Memorandum Order). *Housey Pharm., Inc. v. Astrazeneca UK Ltd.*, 366 F.3d 1348 (Fed. Cir. May 7, 2004) was limited to review of the district court's construction of "inhibitor or activator of a protein," which limitation is not found in any pending claims.
- 02
4. The Decision of the Technical Board of Appeal of the European Patent Office in case T 0729/00 3.3.4 revoked a counterpart European patent for lack of inventive step based on claims containing the limitation "inhibitor or activator of a protein," which limitation is not found in any pending claims.

Examiner: David Guzo

Date Considered: 9/29/05